

## SUFFOLK COUNTY ADMINISTRATIVE CODE SECTION A5-7

### §A5-7. Contractors and vendors required to submit full disclosure statement. (Derived from L.L. No. 14-1976, as amended 2-27-1979 by L.L. No. 6-1979)

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

#### **CONTRACT**

Any written agreement between Suffolk County and a contractor or vendor to do or perform any kind of labor, service, purchase, construction or public work, unless the contract is for a federally or state aided, in whole or in part, program required to be bid pursuant to §103 of the New York General Municipal Law. (Amended 6-29-1993 by L.L. No. 28-1993)

Note: L.L. No. 28-1993<sup>1</sup> also provided as follows:

#### **Section 1. Legislative Intent.**

This Legislature hereby finds and determines that Suffolk County's comprehensive Contractor/Vendor Public Disclosure Statement Law currently applies to a broad array of contracts that exceed one thousand dollars (\$1,000.) in value, subject to exemptions for educational, medical, and governmental entities; and not-for-profit corporations.

This Legislature further finds and determines that these exemptions prevent full disclosure of important information that may be useful to elected county officials in determining whether or not specific types of contracts are in the public interest, especially in light of recent trends toward privatization and use of outside consultants on an increase basis by municipalities.

Therefore, the purpose of this law is to eliminate many of the exemptions from completing and filing verified public disclosure statements with the County Comptroller available to certain contractors providing social services or health services contracts.

#### **CONTRACTOR or VENDOR** (Amended 12-18-1990 by L.L. No. 41-1990<sup>2</sup>; 6-29-1993 by L.L. No. 28-1993<sup>3</sup>)

Any proprietorship, partnership or closely held corporation which has a contract with Suffolk County in excess of one thousand dollars (\$1,000.) or which has three (3) or more contracts with Suffolk County, any three (3) which, when combined, exceed one thousand dollars (\$1,000.), except:

- (1) Hospitals.
- (2) Educational or governmental entities.
- (3) Not-for-profit corporations.
- (4) Contracts providing for foster care, family day-care providers or child protective consulting services.

#### **FULL DISCLOSURE CLAUSE**

A proviso to be included as a material part of a contract imposing upon the contractor or vendor a material, contractual and statutory duty to file a verified public disclosure statement.

#### **VERIFIED PUBLIC DISCLOSURE STATEMENT**

A declaration, the contents of which are acknowledged before a notary public, containing information required under this section.

- B. A full disclosure clause is to be included in all future contracts between Suffolk County and a contractor or vendor. Such full disclosure clause shall constitute a material part of the contract.
- C. Notice of the full disclosure clause shall be included and made a part of the specifications, if any, which are submitted to interested potential bidders.
- D. Each contractor or vendor shall file a verified public disclosure statement with the Comptroller of Suffolk County as soon as practicable prior to being awarded the contract. An updated disclosure statement shall be filed by the contractor or vendor with the Comptroller by the 31<sup>st</sup> day of January in each year of the contract's duration. It shall be the duty of the Comptroller to accept and file such statements.
- E. No contract shall be awarded to any contractor vendor, as defined in this section, unless prior to such award a verified public disclosure statement is filed with the Comptroller as provided in this section. Any verified public disclosure statement containing fraudulent information shall constitute, for all purposes, a failure to file such statement in the first instance.

<sup>1</sup> Editor's Note: This local law was adopted by the Legislature after disapproval by Executive on 5-26-1993.

<sup>2</sup> Editor's Note: This local law was adopted by the Legislature after disapproval by the Executive on 12-13-1990. See the not at A4-12.

<sup>3</sup> Editor's Note: This local law was adopted by the Legislature after disapproval by the Executive on 5-26-1993. See note above.

- F. The verified public disclosure statement required by this section shall include:
- (1) A complete list of the names and addresses of those individual shareholders holding more than five-percent interest in the firm.
  - (2) The table of organization for the company shall include the names and addresses of all individuals serving on the board of directors or comparable body, the names and addresses of all partners and the names and addresses of all corporate officers. The contractor or vendor shall conspicuously identify any such person in this table of organization who is an officer or an employee of Suffolk County.
  - (3) A complete financial statement listing all assets and liabilities as well as a profit-and-loss statement, certified by a certified public accountant. Such statement shall be the most current available and in no event shall have been prepared more than six (6) months prior to the date of the filing of the bid. No financial statement or profit-and-loss statement shall be required from any contractor or vendor having fifty percent (50%) or more of their gross revenues from sources other than the County of Suffolk.
- G. A separate folio for each company shall be maintained alphabetically for public inspection by the Comptroller.
- H. Remedies. The failure to file a verified public disclosure statement as required under this section shall constitute a material breach of contract. Suffolk County may resort, use or employ any remedies contained in Article 2 of the Uniform Commercial Code of the State of New York. In addition to all legal remedies, Suffolk County shall be entitled, upon a determination that a breach has occurred, to damages equal to fifteen percent (15%) of the amount of the contract.
- I. Under no circumstances shall the county be precluded from invoking any remedy contained in the preceding section by reason of its failure to invoke promptly its remedies.